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10/532,174	04/21/2005	Michael Finkenzeller	2002P17649WOUS	6182

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EXAMINER	
MCLEOD, MARSHALL M	
ART UNIT	PAPER NUMBER
2457	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/532,174	FINKENZELLER ET AL.	
	Examiner	Art Unit	
	MARSHALL MCLEOD	2457	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 July 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *56-77* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *56-77* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 56-77 are pending in this application. Claims 1-55 have been cancelled. Furthermore, the examiner withdraws the 35 U.S.C. 112, first paragraph rejection and the claim objection of claim 68.

Response to Arguments

2. Applicant's arguments filed 08 February, 2010 have been fully considered but they are not persuasive.

3. With respect to applicants arguments on page 12 of 19 of the instant arguments. Applicant's contend that "Eneborg et al. do not teach or suggest any determination of any location, recording and saving quality of service data while connected to a network, nor any linking of location information with saved quality of service data that has been recorded and stored. Nor does Eneborg et al. teach or suggest the analyzing of such data for use in select access to any networks to connect to those networks". The examiner respectfully disagrees and refers applicant's to Column 5, lines 64-67 and continued through to Column 6, lines 1-20. Which discloses "User preferences 211 may be kept in end device 210, e.g., **stored in a local memory** and updated by a user, and may be related to those factors (e.g. cost, **QoS**, and the like) considered by the user to be of greatest importance **in selecting which access mechanism to use for communicating data with network** 150 . . .". The examiner interprets the cited portion of the prior art as teaching recording and saving quality of service information while

connected to the network and analyzing factors such as (cost, **QoS**, and the like) for use in selecting access to a network.

4. With respect to applicant's arguments on page 13 of 19 and page 14 of 19 of the instant arguments. Applicant's contend that neither Eneborg, Tayloe, nor Muller, teach or suggest "any telecommunications terminal device storing any quality of service data while it is connected to a first network or location data nor of analyzing such stored data". The examiner respectfully disagrees and refers applicants' to the issued rejection below in conjunction with Column 5, lines 64-67 and continued through to Column 6, lines 1-20. Which discloses "User preferences 211 may be kept in end device 210, e.g., **stored in a local memory** and updated by a user, and may be related to those factors (e.g. cost, **QoS**, and the like) considered by the user to be of greatest importance **in selecting which access mechanism to use for communicating data with network** 150 . . .". The examiner interprets the cited portion of the prior art as teaching recording and saving quality of service information while connected to the network and analyzing factors such as (cost, **QoS**, and the like) for use in selecting access to a network. Also, the examiner respectfully refers applicant's to Column 3, lines 31-34 and Column 5, lines 12-13. Which discloses ". . . an indirect interface and uses the indirect interface to determine the access capability for each access network which is available to the end device", which the examiner interprets as while the terminal is connected. Furthermore, the examiner respectfully states to applicants that the rejection given above is a 35 U.S.C. 103(a) rejection and as such applicants' must consider the combined references

as a whole and not in a piecemeal fashion. As one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

5. With respect to applicant's arguments on page 15 of 19 the examiner refers applicant's to the rejection below which addresses applicant's newly added limitation to the claims.

6. With respect to applicant's arguments in the middle of page 16 of 19 of the instant arguments. Applicant's contend that "The Examiner did not identify any rationale for why claim 60 was rendered obvious by the cited art. (See Office Action, at 5-6). Thus, the Examiner has failed to meet his burden of providing some rationale as to why the cited art would be combined to render claim 60 obvious." The examiner respectfully disagrees and states to applicant's that the rejection for claim 60 was the same rejection issued for claim 56 as stated below and as both claim rejections were combined, as both claims have the same limitations, the rejection and motivation applies the same for both claims.

7. With respect to applicant's arguments at the bottom of page 16 of 19 of the instant arguments. Applicant's contend that "None of the cited art teaches or suggests a telecommunication terminal device that obtains quality of service information for any

network that is saved on another telecommunication terminal device for use in determining a network to select as required by claims 60-61". The examiner respectfully disagrees and states to applicant's that there is no such language used or suggested in the claims and as such applicant's arguments will not be considered. Furthermore, the examiner respectfully states to applicants that if applicant's wish to have such language considered applicant's may wish to amend the claim accordingly or in a response directly point out where such language is used within the claims.

Applicant's further contend that claim 60 "defines a method that requires a telecommunication terminal device to communicate with at least one other telecommunication terminal device to obtain quality of service information for at least one second network for use in determining which network to select". The examiner would like to refer applicant's to see Figure 1. and Column 6, lines 21-32 which discloses obtaining quality of service information for at least one second network for use in determining which network to select.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. **Claims 56 -71 and 73-77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eneborg et al. (Patent. No 6,965,948 B1), hereinafter Eneborg, in view of Muller et al. (Patent No US 6356541 B1), hereinafter Muller.**

6. With respect to claims 56 and 60, Eneborg discloses a method for selecting network access to at least one data network using a telecommunication terminal device (Column 1, lines 5-16) comprising: the telecommunication terminal device selecting access to a first network (Column 3, lines 25-34); the telecommunication terminal device connecting to the first network (Column 3, lines 25-34); the telecommunication terminal device recording and saving quality of service information for the first network (Column 5, lines 64-67; i.e. the cited prior art discloses ". . . stored in a local memory ... (QOS)...") while connected to the first network (Column 3, lines 31-34 and Column 5, lines 12-13); the telecommunication terminal device linking the saved location data to the recorded and saved quality of service information for the first network (Column 3, lines 43-52); the telecommunication terminal device disconnecting from the first network (Column 1, lines 43-54); the telecommunication terminal device determining that a plurality of networks are available, the available networks comprising the first network and at least one second network (Column 3, lines 15-20); the telecommunication terminal device analyzing the saved quality of service information for the first network to select access to one of the first network and a second network of the at least one second network (Column 6, lines 1-20); the telecommunication terminal device selecting access to one of the first network and the second network of the at least one second

network (Column 7, lines 10-18); and the telecommunication terminal device connecting to the selected first network or the second network of the at least one second network (Column 7, lines 10-18).

Eneborg does not disclose the telecommunication terminal device determining a location of the telecommunication terminal device with the aid of the first network; the telecommunication terminal device saving location data comprised of information relating to the determined location; saved location data.

However, Muller discloses the telecommunication terminal device determining a location of the telecommunication terminal device with the aid of the first network (Column 8, lines 66-67 continued through to Column 9, line 5; i.e. Muller states ". . . include the corresponding code number or local area code so that the selection device 4 can use the Internet destination addresses or the corresponding destination call numbers which are stored in the memory 7 to determine the location of the corresponding central computer, which is to be accessed, of the respective Internet service provider. In order to determine, for the connection setup to the Internet destination addresses or destination telephone numbers stored in the memory 7, the most economical registration of the registrations stored in the memory. . .". The cited portion directly above when read in context with (Column 1, lines 66-67 continued through to Column 2, lines 1-7) which states ". . .the service providers frequently make available a number of telephone addresses at different local access points for the user so that the user can

select the access point which is nearest to his location in order to minimize the telephone charges. When read in context, the examiner interprets the cited portions of Muller to disclose that in order to offer a user the "the most economical registration of the registrations stored in the memory" which Muller describes as "local access points for the user so that the user can select the access point which is nearest to his location in order to minimize the telephone charges" . Therefore, it is **inherent** that a determination of the users location itself must be made in order to know which access point or central computer is closest to the user); the telecommunication terminal device saving location data comprised of information relating to the determined location (Column 8, lines 66-67 continued through to Column 9, lines 5-25); saved location data (Column 8, lines 66-67 continued through to Column 9, line 5).

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the teachings Eneborg with the teachings Muller in order to allow a network administrator or technician to manage and maintain the many terminals in a network by identifying the device's location.

7. With respect to claim 57, Eneborg discloses wherein the telecommunication terminal device is one of a mobile radio terminal, a computer, and a laptop (Column 4, lines 47-53) and the analyzing of the saved quality of service information for the first network to select access to the first network or the second network of the at least one

second network is based on an analysis method that depends upon at least one user defined parameter (Column 8, lines 23-40).

8. With respect to claim 58, the combined teachings of Eneborg and Muller disclose wherein the telecommunications terminal device determines the location and performs the linking of the saved location data while the telecommunication terminal device is connected to the first network (Eneborg; Column 8, lines 23-40).

Eneborg does not disclose wherein the telecommunications terminal device determines the location while the telecommunication terminal device is connected to the first network.

However, Muller discloses wherein the telecommunications terminal device determines the location while the telecommunication terminal device is connected to the first network (Column 8, lines 66-67 continued through to Column 9, lines 5-25).

9. With respect to claim 59, it is rejected for the same reasons as claim 58 above. In addition, the combined teachings of Eneborg and Muller discloses wherein the analyzing of the saved quality of service information for the first network to select access to the first network or the second network of the at least one second network considers the location information linked to the recorded and saved quality of service information for the at least one first network (Eneborg; Column 6, lines 1-20).

10. With respect to claim 61, Eneborg discloses wherein the telecommunication terminal device is one of a mobile radio terminal, a computer, and a laptop (Column 4, lines 47-53) and the at least one other telecommunication terminal device is within a predetermined distance of the telecommunication terminal device (Column 5, lines 1-19; i.e. the prior art discloses a LAN, Bluetooth, etc. all of which have a set (predetermined) distance).

11. With respect to claim 62, Eneborg discloses wherein the telecommunication terminal device is configured to communicate the saved quality of service information for the first network to other telecommunication terminal devices (Column 8, lines 23-40).

12. With respect to claim 63, Eneborg discloses wherein the analyzing of the saved quality of service information for the first network accounts for at least one interface of the telecommunication terminal device (Column 12, claim 11).

13. With respect to claim 64, the combined teachings of Eneborg and Muller discloses wherein the second network of the at least one second network is selected after the analyzing of the saved quality of service information (Eneborg; Column 6, lines 1-20).

Eneborg does not disclose saved location data.

However, Muller discloses saved location data (Column 8, lines 66-67 continued through to Column 9, lines 5).

14. With respect to claim 65, Eneborg discloses wherein the telecommunication terminal device is a mobile radio telecommunication terminal (Column 4, lines 47-67).

15. With respect to claim 66, Eneborg discloses the telecommunication terminal device analyzing costs or charges associated with access to each second network for use in determining which of the first network of the at least one second network to select (Column 3, lines 31-43).

16. With respect to claim 67, Eneborg discloses wherein the analyzing of the saved quality of service information for the first network to select access to the first network or the second network of the at least one second network is based on an analysis method that depends upon at least one network access quality parameter and at least one account parameter (Column 8, lines 23-40).

17. With respect to claim 68, Eneborg discloses wherein the at least one account parameter is comprised of at least one parameter dependent upon a selected video application (Column 8, lines 23-40).

18. With respect to claim 69, Eneborg discloses storing the quality of service information for the first network on a central computer (Column 6, lines 32-42).

19. With respect to claim 70, Eneborg discloses updating the stored quality of service information for the first network (Column 5, lines 64-67).

20. With respect to claim 71, Eneborg does not disclose wherein the selecting of access to the first network or the second network of the at least one second network is determined based upon telecommunication terminal device location requirements needed for access to the second network of the at least one second network.

However, Muller discloses wherein the selecting of access to the first network or the second network of the at least one second network is determined based upon telecommunication terminal device location requirements needed for access to the second network of the at least one second network (Column 11, lines 20-52).

21. With respect to claim 73, Eneborg discloses a telecommunication terminal device comprising: at least one interface for connecting to at least one network (Column 1, lines 5-10); a monitor module connected to the at least one interface, the monitor module configured to monitor a quality of a network connection between the telecommunication terminal device and a network when the telecommunication terminal

is connected to the network (Column 5, lines 48-59; i.e. a module is simply software in the device); a reputation repository module connected to the monitor module, the reputation repository module configured to retain quality of network connection information monitored by the monitor module (Column 5, lines 60-67); a connection analysis module connected to the reputation repository module, the connection analysis module configured to analyze network connection information retained in the reputation repository module (Column 6, lines 1-20); and a connection management module connected to the connection analysis module, the connection management module configured to use data analyzed in the connection analysis module to determine an accessible network to select for connection to a network (Column 8, lines 54-67 continued through to Column 9, lines 1-8); and saved quality of network connection information such that the connection analysis module can access (Column 5, lines 64-67).

Eneborg does not disclose the telecommunication terminal device configured to determine a location the telecommunication terminal device is in when connected to the network and link that location and evaluate the location information when analyzing network connection information.

However, Muller discloses the telecommunication terminal device configured to determine a location the telecommunication terminal device is in when connected to the network and link that location (Column 8, lines 66-67 continued through to Column 9,

lines 5-25) and evaluate the location information when analyzing network connection information (Column 8, lines 66-67 continued through to Column 9, lines 5-25).

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the teachings Eneborg with the teachings Muller in order to allow a network administrator or technician to manage and maintain the many terminals in a network by identifying the device's location.

22. With respect to claim 74, Eneborg discloses wherein the connection management module is configured to process all potential combinations of the interfaces and available network access providers to use to determine an optimum network access to select for connection to that network (Column 9, lines 9-29).

23. With respect to claim 75, Eneborg discloses a reputation information client module connected to the connection analysis module, the reputation information client module configured to direct communications with other telecommunication terminal devices to obtain network access information that the other telecommunication terminal devices have stored (Column 6, liens 1-20); and the connection analysis module configured to access the network access information that the other telecommunication terminal devices have stored obtained by the reputation information client module (Column 8, lines 54-67 continued through to Column 9, lines 1-8).

24. With respect to claim 76, Eneborg discloses wherein the reputation information client module is connected to the reputation repository module (Column 6, lines 1-20) and wherein the telecommunication terminal device and the other telecommunication terminal devices are devices selected from the group consisting of mobile telephones, mobile radio terminals, and laptops (see Figure 1.).

25. With respect to claim 77, Eneborg does not disclose a localizing module connected to the reputation repository module, the localizing module configured to determine the location of the telecommunication terminal device with the aid of the network, the data of the determined location also being stored in the repository module.

However, Muller discloses a localizing module connected to the reputation repository module, the localizing module configured to determine the location of the telecommunication terminal device with the aid of the network, the data of the determined location also being stored in the repository module (Column 8, lines 66-67 continued through to Column 9, lines 1-25).

26. Claim 72 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eneborg in view of Muller and further in view of Tayloe et al. (Patent No US 5,826,188 A), hereinafter Tayloe.

27. With respect to claim 72, neither Eneborg nor Muller discloses a navigation system of the telecommunication terminal device communicating directions on how to get to a location needed for access to the second network of the at least one second network.

However, Tayloe discloses a navigation system of the telecommunication terminal device communicating directions on how to get to a location needed for access to the second network of the at least one second network (Column 4, lines 1-12).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARSHALL MCLEOD whose telephone number is (571)270-3808. The examiner can normally be reached on Monday - Thursday 6:30 a.m-4:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ramy M Osman/
Primary Examiner, Art Unit 2457

/Marshall McLeod/
Examiner, Art Unit 2457
9/8/2010